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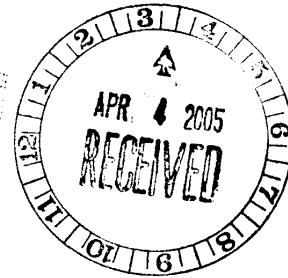
April 4, 2005

BY HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

ENTERED
Office of Proceedings

APR 6 2005
Part of
Public Record



Re: Docket No. AB-6 (Sub-No. 335X), BURLINGTON NORTHERN RAILROAD
COMPANY – ABANDONMENT EXEMPTION – BETWEEN KLINKITAT AND
GOLDENDALE, WA

Docket No. AB-6 (Sub-No. 346X), BURLINGTON NORTHERN RAILROAD
COMPANY – ABANDONMENT EXEMPTION – IN KLINKITAT COUNTY, WA

Dear Secretary Williams:

Enclosed for filing in the above-captioned proceedings are an original and ten
copies of “**BNSF Railway Opposition to Motion to Hold in Abeyance The Petition to
Reopen Docket Nos. AB-6 (Sub-Nos. 335X and 346X), TO DECLARE CERTAIN RIGHT-OF-
WAY SEGMENTS *DE JURE* ABANDONED, TO DECLARE THE REMAINING RIGHT-OF-WAY
SEGMENT *DE FACTO* ABANDONED, AND TO REVOKE AUTHORITY FOR TRAIL USE DUE TO LOSS
OF FEDERAL JURISDICTION.**”

Please date stamp the enclosed extra copy and return it in the enclosed self-stamped envelope.

Sincerely yours,

Sidney L. Strickland, Jr.

Enclosures

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**Docket No. AB-6 (Sub-No. 335X)
BURLINGTON NORTHERN RAILROAD COMPANY – ABANDONMENT
EXEMPTION – BETWEEN KLINKITAT AND GOLDENDALE, WA**

**Docket No. AB-6 (Sub-No. 346X)
BURLINGTON NORTHERN RAILROAD COMPANY – ABANDONMENT
EXEMPTION – IN KLINKITAT COUNTY, WA**

**BNSF RAILWAY OPPOSITION TO MOTION TO HOLD IN ABEYANCE THE PETITION
TO RE-OPEN DOCKET NOS. AB-6 (SUB-NOS. 335X AND 346X),
TO DECLARE CERTAIN RIGHT-OF-WAY SEGMENTS *DE JURE* ABANDONED,
TO DECLARE THE REMAINING RIGHT-OF-WAY SEGMENT *DE FACTO* ABANDONED, AND TO
REVOKE AUTHORITY FOR TRAIL USE DUE TO LOSS OF FEDERAL JURISDICTION**

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Dated: April 4, 2005.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**Docket No. AB-6 (Sub-No. 335X)
BURLINGTON NORTHERN RAILROAD COMPANY – ABANDONMENT
EXEMPTION – BETWEEN KLICKITAT AND GOLDENDALE, WA**

**Docket No. AB-6 (Sub-No. 346X)
BURLINGTON NORTHERN RAILROAD COMPANY – ABANDONMENT
EXEMPTION – IN KLICKITAT COUNTY, WA**

**BNSF RAILWAY OPPOSITION TO MOTION TO HOLD IN ABEYANCE THE PETITION
TO RE-OPEN DOCKET NOS. AB-6 (SUB-NOS. 335X AND 346X),
TO DECLARE CERTAIN RIGHT-OF-WAY SEGMENTS *DE JURE* ABANDONED,
TO DECLARE THE REMAINING RIGHT-OF-WAY SEGMENT *DE FACTO* ABANDONED, AND TO
REVOKE AUTHORITY FOR TRAIL USE DUE TO LOSS OF FEDERAL JURISDICTION**

By Petition filed February 7, 2005, Tracy and Lorraine Zoller, William Giersch, David and Kristen Mattson, and Allen Tooke (“Petitioners”) requested that the Surface Transportation Board (“Board”) reopen the above-captioned proceedings, claiming “new evidence and substantially changed circumstances” show Burlington Northern and Santa Fe Railway Company (Now BNSF Railway Company “BNSF”) has sold its interests to full-width right-of-way on two segments of the “Klickitat Branch line” located in Klickitat County, Washington, thereby disconnecting from the interstate railway system that portion of the Klickitat Branch Line that had been “rail banked” under the Trails Act, 16 U.S.C. § 1247(d). The Washington State Parks and Recreation Commission, Rails to Rails Conservancy, and Klickitat Trail Conservancy have filed a joint reply in opposition; and BNSF has filed a separate reply in opposition.

On March 14, 2005, Petitioners have now filed the present motion to hold in abeyance the previously filed petition to reopen, claiming (Motion p. 1) “the parties who oppose Petitioners’ Petition to Reopen have in substantial if not complete part relied on factual allegations that were developed after Petitioners filed their Petition on February 7, 2005, and they otherwise submitted evidence that was not available or discernable prior to the February 7, 2005 filing.”

As noted in our Reply to the Petition to Reopen, Petitioners have the burden of showing that material error, new evidence, or substantially changed circumstances require reopening of the present proceeding. See 49 CFR 1152.25(e)(2)(ii) and ((e)(4). Apparently recognizing this burden of proof has not been met, Petitioners now seek to delay disposition of this proceeding for four months (nearly half a year) to file at a later date an impermissible reply to a reply.

Clearly, a proceeding should not be held in abeyance to permit an impermissible filing under the Board’s own rules. Either Petitioners have or have not met their burden under the Board’s rules, regulations and relevant statutory provisions pursuant to the procedural mechanisms of the Board. There is no reason to postpone a determination that the existing procedures call for in the instant proceeding. There is no basis for further delay of disposing the matter. If Petitioners have determined that there is other evidence they need in order to meet their burden, they can, of course, withdraw from the present proceeding and seek relief at that time. To hold the proceeding in abeyance because Petitioners, essentially desire other evidence to show “changed circumstances” that would support the Board’s reopening of Docket Nos. AB-6 (Sub-No. 335X) and AB-6 (Sub-No. 346X), invites fishing expeditions and speculative filings that would lock the rail banked properties here in a limbo status that could have a chilling effect

on their ability to operate the trail, to obtain funding in support of the trail and to maintain the kind public confidence in their financial and operational position that they should be permitted to maintain.

As noted in our prior filing, these proceedings involve properties railbanked by the Interstate Commerce Commission ("ICC") in abandonment proceedings BNSF's predecessor, Burlington Northern Railroad Company ("BN"), initiated over a decade ago in September 1991, and ending also more than a decade ago with a final decision served July 6, 1994, ("July 1994 Final NITU Decision"). The more than 30 miles of rail banking and the trail use that now constitutes the Klickitat Trail, owned by The Washington State Parks and Recreation Commission and administered by the US Forest Service, should not be subject to a limbo status and the potential adverse affect such status poses. Simply put, petitioners can not truly expect that this proceeding should be held in abeyance essentially because they have yet to meet their burden of providing the basis to reopen the proceeding; nor because they eventually desire to file a pleading not even allowed by the Board's own rules – a reply to a reply..

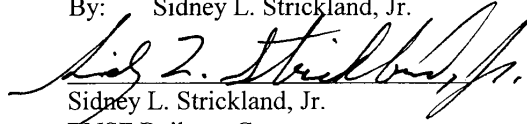
In sum, the Board should deny Petitioners request to hold the proceeding in abeyance.

CONCLUSION

For the foregoing reasons, the Board should deny Petitioners' request to hold the proceeding in abeyance.

Respectfully submitted this 4th day of April, 2005.

By: Sidney L. Strickland, Jr.



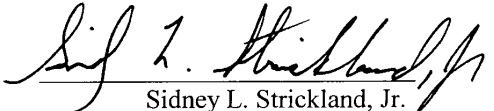
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CERTIFICATE OF SERVICE

I hereby certify that on April 4, 2005, I served the foregoing "**BNSF RAILWAY
OPPOSITION TO MOTION TO HOLD IN ABEYANCE THE PETITION TO RE-OPEN AB-6 SUB.
NOS. 335X AND 346X, TO DECLARE CERTAIN RIGHT-OF-WAY SEGMENTS *DE JURE*
ABANDONED, TO DECLARE THE REMAINING RIGHT-OF-WAY SEGMENT *DE*
FACTO ABANDONED, AND TO REVOKE AUTHORITY FOR TRAIL USE DUE TO LOSS OF FEDERAL
JURISDICTION**", by first class mail, postage prepaid, on the following:

Charles Montange, Esq.
426 NW 162nd Street
Seattle, Washington 98177

Cecilia Fex
ACKERSON KAUFFMAN FEX, PC
1250 H Street, NW, Suite 850
Washington, DC 20005


Sidney L. Strickland, Jr.